



April 12, 1999

Ms. Jennifer Soldano
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR99-0985

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123515.

The Texas Department of Transportation (the department) received a request for the scores, questions, and answers concerning job vacancy number 8-52-A110-945, Information Specialist I. The requestor seeks her own information as well as that of the person who was selected for the position. You argue that the requested information is excepted from required public disclosure by section 552.122(b) of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122(b) includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122(b) exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994). Traditionally, this office has applied section 552.122(b) where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976).

In Open Records Letter Ruling No. 97-2612 (1997), we found that the department could withhold interview information under section 552.122(b). There, you indicated that the department would use the questions and criteria to evaluate applicants in future interviews. You state that the previous ruling applies to the requested information here. After reviewing the submitted documents, we believe that two of the questions, question numbers 2 and 4, their rating criteria (preferred answers), and candidate answers are protected "test items."

They will “measure the skill, knowledge, intelligence, capacities, or aptitudes of an individual” and are a “standard means by which an individual’s or group’s knowledge or ability in a particular area is evaluated.” Open Records Decision No. 626 at 6 (1994). The remaining questions are not “test items” as contemplated by section 552.122(b), and must be released; the material “does not involve an evaluation of an applicant’s knowledge in a particular area.” *Id.* at 8. Consequently, only questions 2 and 4 and their related information may be withheld under section 552.122(b). *Id.* at 8 (when answers to test questions might reveal the questions themselves, the information may be withheld under section 552.122); *see* Attorney General Opinion JM-640 at 3 (1987).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 123515

Encl: Submitted documents

cc: Ms. Julia Ross
1107 Gardner CV
Austin, Texas 78721
(w/o enclosures)